common equity tier 1 capital, additional tier 1 capital, or tier 2 capital, the FDIC will make its decision publicly available, including a brief description of the material terms of the regulatory capital element and the rationale for the determination.

§ 324.21 Minority interest.

(a) *Applicability*. For purposes of § 324.20, an FDIC-supervised institution is subject to the minority interest limitations in this section if:

(1) A consolidated subsidiary of the FDIC-supervised institution has issued regulatory capital that is not owned by the FDIC-supervised institution; and

(2) For each relevant regulatory capital ratio of the consolidated subsidiary, the ratio exceeds the sum of the subsidiary's minimum regulatory capital requirements plus its capital conservation buffer.

(b) *Difference in capital adequacy standards at the subsidiary level*. For purposes of the minority interest calculations in this section, if the consolidated subsidiary issuing the capital is not subject to capital adequacy standards similar to those of the FDIC-supervised institution, the FDIC-supervised institution must assume that the capital adequacy standards of the FDIC-supervised institution apply to the subsidiary.

(c) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the FDIC-supervised institution*. For each consolidated subsidiary of an FDIC-supervised institution, the amount of common equity tier 1 minority interest the FDIC-supervised institution may include in common equity tier 1 capital is equal to:

(1) The common equity tier 1 minority interest of the subsidiary; minus

(2) The percentage of the subsidiary's common equity tier 1 capital that is not owned by the FDIC-supervised institution, multiplied by the difference between the common equity tier 1 capital of the subsidiary and the lower of:

(i) The amount of common equity tier 1 capital the subsidiary must hold, or would be required to hold pursuant to paragraph (b) of this section, to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor; or

(ii)(A) The standardized total risk-weighted assets of the FDIC-supervised institution that relate to the subsidiary multiplied by

(B) The common equity tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor.

(d) *Tier 1 minority interest includable in the tier 1 capital of the FDIC-supervised institution*. For each consolidated subsidiary of the FDIC-supervised institution, the amount of tier 1 minority interest the FDIC-supervised institution may include in tier 1 capital is equal to:

(1) The tier 1 minority interest of the subsidiary; minus

(2) The percentage of the subsidiary's tier 1 capital that is not owned by the FDIC-supervised institution multiplied by the difference between the tier 1 capital of the subsidiary and the lower of:

(i) The amount of tier 1 capital the subsidiary must hold, or would be required to hold pursuant to paragraph (b) of this section, to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor, or

(ii)(A) The standardized total risk-weighted assets of the FDIC-supervised institution that relate to the subsidiary multiplied by

(B) The tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor.

(e) *Total capital minority interest includable in the total capital of the FDIC-supervised institution*. For each consolidated subsidiary of the FDIC-supervised institution, the amount of total capital minority interest the FDIC-supervised institution may include in total capital is equal to:

(1) The total capital minority interest of the subsidiary; minus

(2) The percentage of the subsidiary's total capital that is not owned by the FDIC-supervised institution multiplied by the difference between the total capital of the subsidiary and the lower of:

(i) The amount of total capital the subsidiary must hold, or would be required to hold pursuant to paragraph (b) of this section, to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor, or

(ii)(A) The standardized total risk-weighted assets of the FDIC-supervised institution that relate to the subsidiary multiplied by

(B) The total capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor.

[78 FR 55471, Sept. 10, 2013, as amended at 79 FR 20759, Apr. 14, 2014]

§ 324.22 Regulatory capital adjustments and deductions.

(a) *Regulatory capital deductions from common equity tier 1 capital.* An FDIC-supervised institution must deduct from the sum of its common equity tier 1 capital elements the items set forth in this paragraph (a):

(1) Goodwill, net of associated deferred tax liabilities (DTLs) in accordance with paragraph (e) of this section, including goodwill that is embedded in the valuation of a significant investment in the capital of an unconsolidated financial institution in the form of common stock (and that is reflected in the consolidated financial statements of the FDIC-supervised institution), in accordance with paragraph (d) of this section;

(2) Intangible assets, other than MSAs, net of associated DTLs in accordance with paragraph (e) of this section;

(3) Deferred tax assets (DTAs) that arise from net operating loss and tax credit carryforwards net of any related valuation allowances and net of DTLs in accordance with paragraph (e) of this section;

(4) Any gain-on-sale in connection with a securitization exposure;

(5)(i) Any defined benefit pension fund net asset, net of any associated DTL in accordance with paragraph (e) of this section, held by a depository institution holding company. With the prior approval of the FDIC, this deduction is not required for any defined benefit pension fund net asset to the extent the depository institution holding company has unrestricted and unfettered access to the assets in that fund.

(ii) For an insured depository institution, no deduction is required.

(iii) An FDIC-supervised institution must risk weight any portion of the defined benefit pension fund asset that is not deducted under paragraphs (a)(5)(i) or (a)(5)(ii) of this section as if the FDIC-supervised institution directly holds a proportional ownership share of each exposure in the defined benefit pension fund.

(6) For an advanced approaches FDIC-supervised institution that has completed the parallel run process and that has received notification from the FDIC pursuant to § 324.121(d), the amount of expected credit loss that exceeds its eligible credit reserves; and

(7) With respect to a financial subsidiary, the aggregate amount of the FDIC-supervised institution's outstanding equity investment, including retained earnings, in its financial subsidiaries (as defined in 12 CFR 362.17). An FDIC-supervised institution must not consolidate the assets and liabilities of a financial subsidiary with those of the parent bank, and no other deduction is required under paragraph (c) of this section for investments in the capital instruments of financial subsidiaries.

(8) (i) A state savings association must deduct the aggregate amount of its outstanding investments, (both equity and debt) in, and extensions of credit to, subsidiaries that are not includable subsidiaries as defined in paragraph (a)(8)(iv) of this section and may not consolidate the assets and liabilities of the subsidiary with those of the state savings association. Any such deductions shall be from assets and common equity tier 1 capital, except as